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***Via Certified Mail –  
Return Receipt Requested***

March 22, 2017



Members of the Board of Directors  
Gabriel Gonzalez - Manager  
South County Reg. Wastewater Authority  
A Joint Powers Authority  
1500 Southside Drive  
Gilroy, CA 95020-7042

Head of Agency  
CH2M Hill OM1  
South County Reg. Wastewater Authority  
Treatment and Reclamation Facility  
1500 Southside Drive  
Gilroy, CA 95020-7042

**Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act (Clean Water Act)**

Dear Mr. Gonzalez, Members of the Board of Directors and Head of Agency:

## **STATUTORY NOTICE**

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1251 *et seq.*, that River Watch alleges are occurring through the ownership and/or operation of the South County Regional Wastewater Authority Treatment and Reclamation Facility ("Facility") and associated sewer collection system.

River Watch hereby places the South County Regional Wastewater Authority ("Authority"), as owner of the Facility and associated sewer collection system, and CH2M Hill OM1 ("CH2M Hill"), as operator of the Facility and associated sewer collection system (identified collectively in this Notice Letter as the "Discharger"), on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the Discharger for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board ("RWQCB"), Central Coast Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the Discharger's National Pollution Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, who has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition such that violation of a permit limit places a polluter in violation of the CWA. River Watch alleges the Discharger is in violation of the CWA by violating the terms of its NPDES permit.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency ("EPA") to a state or to a regional regulatory agency provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (see 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board ("SWRCB") and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the Discharger's operations in the region at issue in this Notice is the RWQCB, Central Coast Region.

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the Discharger with the CWA.

## **NOTICE REQUIREMENTS**

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

### **1. The Specified Standard, Limitation, or Order Alleged to Have Been Violated**

The order violated is NPDES No. CA0049964. River Watch has identified specific violations of the Discharger's NPDES permit including raw sewage discharges and failure by the Discharger to either comply with or provide evidence that it has complied with all the terms of its NPDES permit.

## **2. The Activity Alleged to Constitute a Violation**

River Watch contends that from March 22, 2012, March 22, 2017, the Discharger has violated the Act as described in this Notice. River Watch contends these violations are continuing or have a likelihood of occurring in the future.

### **A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts**

#### **i. Sanitary Sewer Overflows Occurrence**

Sanitary Sewer Overflows (“SSOs”), in which untreated sewage is discharged above ground from the collection system prior to reaching the Facility are alleged to have occurred both on the dates identified in California Integrated Water Quality System (“CIWQS”) Interactive Public SSO Reports and on the dates when no reports were filed by the Discharger, all in violation of the CWA.

The Discharger’s aging sewer collection system has historically experienced high inflow and infiltration (“I/I”) during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure resulting in SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters including tributaries of Monterey Bay such as Llagas Creek, Fisher Creek, Miller Slough and the Pajaro River – all waters of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the “Total Number of SSO locations” as 82, with 404,137 “Total Vol. of SSOs (gal).” Of this total volume, the Discharger admits at least 276,950 gallons, or 68% of the total, reached a surface water. However, a review of the Discharger’s records indicates a much greater percentage of SSOs reached a drainage to a surface water or a surface water itself. The remaining volume was discharged into the environment posing both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial endangerment to health and the environment.

A review of the CIWQS SSO Reporting Program Database specifically identifies 10 recent SSOs reported as having reached a water of the United States, identified by Event ID numbers 831647, 833014, 831534, 820134, 831658, 789291, 832557, 811798, 831653, and 831659. Included in the 10 reported SSOs are the following incidents:

February 2, 2017 (Event ID# 833014) – an SSO estimated at 78,000 gallons occurred at 12690 Harding Avenue as a result of heavy rains which overwhelmed the system. According to the report, 11,200 gallons of the spill were recovered while 78,000 gallons were reported as reaching Llagas Creek.



January 1, 2017 (Event ID# 831534) – an SSO estimated at 57,900 gallons occurred at Monterey Road and Ciolino Avenue (Coordinates 37.123878 -121.649366) as a result of excessive rains occurring in the mainline. According to the report, all 57,900 gallons discharged to Llagas Creek.

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, these alleged discharges are violations of the Discharger's NPDES permit, which states in Section III. Discharge Prohibitions:

B. The discharge of any waste not specifically regulated by this Order is prohibited.

C. Creation of a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the CWC water code, is prohibited.

D. The overflow or bypass of wastewater from the Discharger's collection, treatment, or disposal facilities and the subsequent discharge of untreated or partially treated wastewater, except as provided for in Attachment D, Standard Provision I.G (Bypass), is prohibited.

E. Discharges of sludge, residues, or any other wastes into surface waters or into any area where they may enter surface water, are prohibited.

River Watch contends these violations are continuing in nature or have a likelihood of occurring in the future.

ii. Inadequate Reporting of Discharges

a. Incomplete and Inaccurate SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact to public health and the environment. The Discharger's SSO Reports, which should reveal critical details about each of these SSOs, lack responses to specific questions that would identify the causes and the potential repairs ensuring these violations would not recur. For example, the Discharger's SSO Reports frequently state "No" or are "left blank" in response to Question 34a ("Is there an ongoing investigation?") and Question 40 ("Water quality samples analyzed for").

In addition, River Watch's expert believes many of the SSOs reported by the Discharger as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching a surface water did so in greater volume than stated. River Watch's expert also believes that a careful reading of the time when the Discharger receives notification of an SSO, the time of its response, and the time at which the SSO ended, too often appear as unlikely estimations. For example:

January 10, 2017 (Event ID #831658) – the spill start time is reported as 8:00 pm, the agency notification and operator arrival is reported as occurring simultaneously, and the spill end time is reported as 12:50 am. The spill of 850 gallons is recorded as ending two hours and fifty minutes after 8:00 pm.

February 7, 2017 (Event ID #832557) – the spill start time, agency notification and operator arrival time are reported as occurring simultaneously at 10:15 am. The spill end time is identified as 12:45 pm, two hours and thirty minutes after the spill began.

Given the unlikely accuracy of the times and intervals provided in these reports, it is difficult to consider the stated volumes as accurate. Without accurately reporting the spill start and end time, there is a danger that the duration and volume of a spill will be underestimated.

b. Failure to Warn

River Watch contends the Discharger is understating the significance of the impacts of its CWA violations by failing to post health warning signs for the following discharges reaching a surface water – Event ID# 831647, 831534, 820134, 831658, 823557, and 811798.

iii. Failure to Mitigate Impacts

River Watch contends the Discharger fails to adequately mitigate the impacts of SSOs. The Discharger is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Statewide WDR requires the Discharger to take all feasible steps, and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

A critical remedial measure is the performance of adequate sampling to determine the nature and the impact of the release. As the Discharger is severely underestimating SSOs which reach surface waters, River Watch contends the Discharger is not conducting sampling on most SSOs.

The EPA's "Report to Congress on the Impacts of SSOs" identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within areas of the Discharger's SSOs. Neighboring waterways include sensitive areas for the California tiger salamander, California red-legged frog and the western pond turtle. There is no record of the Discharger performing any analysis of the impact of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

**B. Collection System Subsurface Discharges**

It is a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a sewer collection system result in discharges to adjacent surface waters via underground hydrological connections. River Watch contends untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., in the Discharger's sewer collection system into groundwater hydrologically connected to surface waters including, but not limited to, tributaries of Monterey Bay such as Llagas Creek, Fisher Creek, Miller Slough and the Pajaro River. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage.

Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Any exfiltration found is a violation of the Discharger's NPDES Permit and thus the CWA. During the course of discovery River Watch will test surface waters adjacent to sections of the Discharger's sewer collection system to determine the location and extent of exfiltration.

**C. Violation of Effluent Limitations and Monitoring Requirements**

A review of the Discharger's Self-Monitoring Reports ("SMRs") identifies the following violations of effluent limitations imposed under the Discharger's NPDES Permit:



i. Reported Violations

a. Deficient Monitoring

The SMRs identify 15 violations of NPDES Permit No. CA0049964 – Order No. R3-2010-0009, VI. Provisions, B. Monitoring and Reporting Program (MRP) Requirements:

- (1/04/2017) Insufficient depletion of GGA sample; thus the sample was invalidated.
- (1/04/2017) Insufficient depletion of GGA standard; thus, the sample result was invalidated.
- (10/16/2016) The influent conductance meter failed.
- (10/16/2016) Specific Conductivity meter failed and continuous monitoring of the influent flow could not be achieved.
- (10/16/2016) Specific Conductivity on the plant influent as not monitored continuously. The specific conductivity meter failed and manual grab readings were taken by Operations.
- (08/14/2016) Monthly Effluent 8<sup>th</sup> Day BOD5 composite sample was not sampled due to a misunderstanding that the influent and effluent BOD5 samples had to be sampled the same day.
- (08/14/2016) Monthly Effluent 8<sup>th</sup> Day TSS composite sample was not sampled due to a misunderstanding that the influent and effluent BOD5 samples had to be sampled the same day.
- (08/14/2016) Monthly Influent 8<sup>th</sup> Day BOD5 composite sample was not sampled due to a refrigerator failure to keep sample at desired temperature.
- (08/14/2016) Monthly Influent 8<sup>th</sup> Day TSS composite sample was not sampled due to a refrigerator failure to keep sample at desired temperature.
- (08/13/16) Influent 8<sup>th</sup> day sampling event (August 13) was not analyzed. The influent sampler temperature control malfunctioned and the refrigerator temperature had risen up to 20 degrees C. As a result of this temperature increase the influent composite sample was invalidated (BOD and TSS). Another composite sample was initiated on August 14 to validate the missed sample results.
- (08/13/2016) The Effluent 8<sup>th</sup> day sample (August 13 sample) was not analyzed (TSS and BOD) because the laboratory staff assumed since the influent composite sample was invalid then only the same day Influent and Effluent sampling was necessary. The laboratory staff analyzed 9<sup>th</sup> day Influent and Effluent samples for TSS and BOD.
- (07/26/2016) Monthly secondary effluent 8<sup>th</sup> day sample for BOD5 did not meet the BOD5 criteria and was qualified as ">" data.
- (03/31/2016) Monthly Secondary Effluent 8<sup>th</sup> Day Sample for BOD5 did not meet the BOD5 criteria and was qualified as ">" data.
- (01/06/2016) The conductivity meter malfunctioned on January 6, 2016. Therefore, influent conductivity was not monitored.

- (12/31/2015) Deficient Reporting: The information for the following Contingency Programs were not available for this report. 1. Inflow and Infiltration programs 2. Spill (SSO) Prevention Program/Plan 3. Salt Management Plan.

b. Groundwater Violations

A review of the Discharger's SMRS identifies 39 violations of NPDES Permit No. CA0049964 – Order No. R3-2010-0009, V. Receiving Water Limitations, B. Groundwater Limitations:

- (12/15/2016) GW-003 Chloride and Sodium exceedances.
- (12/15/2016) GW-011 Manganese and Sodium exceedances.
- (12/05/2016) GW-003 Chloride and sodium exceedances.
- (12/05/2016) GW-011 Manganese and Sodium exceedances.
- (12/05/2016) GW-014 Chloride and Sodium exceedances.
- (12/05/2016) GW-014 Chloride and Sodium exceedances.
- (09/12/2016) GW-004 Electrical conductivity exceedance.
- (09/12/2016) GW-005 Chloride, Manganese and Sodium exceedances.
- (09/12/2016) GW-006 Chloride and Manganese exceedances.
- (09/12/2016) GW-013 Chloride, Manganese and Sodium exceedances.
- (09/12/2016) GW-020 Chloride, Manganese and Sodium exceedances.
- (09/12/2016) GW-020 Chloride, Manganese and Sodium exceedances.
- (09/12/2016) GW-026 Chloride, Iron, Manganese and Sodium exceedances.
- (09/12/2016) GW-026 Chloride, Iron, Manganese, and Sodium exceedances.
- (09/06/2016) GW-003 Chloride and Sodium exceedances.
- (09/06/2016) GW-003 Chloride and Sodium exceedances.
- (09/06/2016) GW-005 Chloride, Manganese, and Sodium exceedance.
- (09/06/2016) GW-006 Chloride, Iron, and Manganese exceedances.
- (09/06/2016) GW-011 Chloride, Manganese and Sodium exceedances.<sup>1\*</sup>
- (09/06/2016) GW-011 Chloride, Manganese and Sodium exceedances. \*
- (09/06/2016) GW-011 Chloride, Manganese and Sodium exceedances. Upstream well and exceedances is not related to effluent discharge.
- (09/06/2016) GW-013 Chloride, Manganese and Sodium exceedances. \*
- (09/06/2016) GW-014 Chloride, Manganese and Sodium exceedances. \*
- (09/06/2016) GW-014 Chloride, Manganese and Sodium exceedances. \*
- (09/06/2016) GW-025 Iron, Manganese and Sodium exceedances. Upstream well and exceedance is not related to effluent discharge.
- (09/06/2016) GW-027 Chloride and Sodium exceedances. Upstream well and exceedance is not related to effluent discharge.

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<sup>1\*</sup> The Facility is not designed to treat Chloride, Manganese, Iron and Sodium



- (06/08/2016) GW-011 Chloride, Manganese, Sodium and TDS exceedances. \*
- (06/08/2016) GW-014 Chloride, Manganese and Sodium exceedances. \*
- (06/06/2016) GW-003 Chloride and Sodium exceedances. \*
- (03/09/2016) GW-006 Chloride and Manganese exceedances. \*
- (03/09/2016) GW-020 Chloride and Sodium exceedances. \*
- (03/09/2016) GW-026 Chloride, Iron, Manganese and Sodium exceedances. \*
- (03/09/2016) GW-027 Chloride and Sodium exceedances. \*
- (03/09/2016) GW-027 Chloride and Sodium exceedances. \*
- (03/07/2016) GW-005 Chloride, Manganese and Sodium exceedances. \*
- (03/07/2016) GW-013 Chloride and Sodium exceedances. \*
- (03/01/2016) GW-003 Chloride and Sodium exceedances. \*
- (03/01/2016) GW-011 Chloride, Manganese and Sodium exceedances. \*
- (03/01/2016) GW-014 Chloride, Manganese and Sodium exceedances. \*

c. Reclamation Specification Violations

A review of the Discharger's SMRs identifies 2 violations of NPDES Permit No. CA0049964 – Order No. R3-2010-0009, IV. Effluent Limitations and Discharge Specifications, C. Reclamation Specifications: "Reclamation use of tertiary treated wastewater shall adhere to applicable requirements off CWC sections 13500-13577 (Water Reclamation) and of California Code of Regulations (CCR) Title 22, sections 60301-60357 (Water Recycling Criteria)":

- (12/20/2016) Category 2 Violation - Chlorine, Total Residual Daily Maximum limit is 0 mg/L and reported value was 0.27mg/L at EFF-003.
- (12/17/2016) Other Effluent Violation - Total Coliform Single Sample Maximum limit is 240 MPN/100mL and reported value was 1600 MPN/100mL at EFF-003.

D. Violations of Receiving Water Limitations and Impacts to Beneficial Uses

Monterey Bay, through tributary waters of the Pajaro River, Miller Slough and Llagas Creek, supports many sensitive species such as the Bay checkerspot butterfly, California tiger salamander, Foothill yellow-legged frog, California red-legged frog, western pond turtle, California horned lizard, Golden eagle, Northern harrier, White-tailed kite, California burrowing owl, Loggerhead shrike, Least Bell's vireo, Bank swallow, Tricolored blackbird, pallid bat, Townsend's big-eared bat, San Francisco ducky-footed woodrat, San Joaquin kit fox and American badger.

River Watch is understandably concerned as to the effects of both surface and underground SSOs on critical habitat in and around the diverse and sensitive ecosystem of the Facility and the Discharger's SSOs.

Monterey Bay's aquatic unit has many beneficial uses as defined in the RWQCB's Basin Plan. Discharges in excess of receiving water and groundwater limitations reaching these waters cause prohibited pollution by unreasonably affecting their beneficial uses. In order to protect these beneficial uses, the Discharger is required by NPDES Permit No. CA0049964 – Order No. R3-2010-0009, V. Receiving Water Limitations, A. Surface Water Limitations, to insure that that discharges “from the wastewater treatment facility shall not cause the following conditions in Llagas Creek and the Pajaro River.”

The order then goes on to list 22 prohibitions. River Watch finds insufficient information in the public record demonstrating the Discharger has monitored for and complied with these receiving water standards. River Watch is understandably concerned regarding the effects of both surface and underground exceedances of the Discharger's NPDES Permit limitations to beneficial uses applicable to Monterey Bay, Miller Slough, Llagas Creek and Fisher Creek.

The Discharger is further required by NPDES Permit No. CA0049964 – Order No. R3-2010-0009, V. Receiving Water Limitations, B. Groundwater Limitations, to insure that the activities “at and discharges from the treatment facility shall not cause exceedance/deviation from the following water quality objectives for groundwater established by the Basin Plan”

River Watch finds insufficient information in the public record demonstrating the Discharger has monitored for and complied with the receiving water limitations in its permit.

### **3. The Person or Persons Responsible for the Alleged Violation**

The entities responsible for the alleged violations identified in this Notice are the South County Regional Wastewater Authority and CH2M Hill OM1 (referred to collectively in this Notice as the “Discharger”), and those of their employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

### **4. The Location of the Alleged Violation**

The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the Discharger which relate to its ownership and operation of the Facility and associated sewer collection system, as further described in this Notice.

The cities of Gilroy and Morgan Hill, which own and maintain the municipal wastewater collection systems within each respective city, convey wastewater to the Facility which is owned by the South County Wastewater Authority under a Joint Powers Agreement

with Gilroy and Morgan Hill and operated by CH2M Hill. The Facility, located at 1500 Southside Drive in Gilroy, has design secondary treatment capacities of 8.5 million gallons per day ("mgd;" average dry weather flow) and 10.2 mgd (average wet weather flow) and tertiary treatment capacity of 9.0 mgd. Secondary treated wastewater is land applied at Discharge Point 001 to percolation ponds adjacent to Llagas Creek. Tertiary treated wastewater is used to irrigate farmlands and may be discharged at Discharge Point 002 to the Pajaro River.

Secondary treated wastewater is distributed from Discharge Point 001 to 37 percolation ponds located adjacent to Llagas Creek. The Discharger irrigates onsite landscaping with reclaimed wastewater which also supplies the fire protection system. The Discharger delivers most of the reclaimed water offsite for irrigation or industrial cooling by the City of Gilroy Parks, Calpine Cogeneration Facility, Gilroy Golf Course, Eagle Ridge Golf Course, Obata Farms, and McCarthy Business Park. Under emergency conditions during wet weather events, tertiary treated wastewater may also be discharged at Discharge Point 002 to the Pajaro River.

**5. Reasonable Range of Dates During Which the Alleged Activity Occurred**

The range of dates covered by this Notice is March 22, 2012 through March 22, 2017. This Notice also includes all violations of the CWA by the Discharger which occur during and after this Notice period up to and including the time of trial.

**6. The Full Name, Address, and Telephone Number of the Person Giving Notice**

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch," an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 708 Gravenstein Highway North, #407, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org), or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice.

All communications should be directed to counsel identified below:



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## RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with Discharger's staff to tailor remedial measures to the specific operation of the Facility and associated sewage collection system. In advance of that conversation, River Watch identifies the following set of remedial measures that will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns.

### I. DEFINITIONS

- Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television ("CCTV") inspections for sewer lines; manhole inspections for structural defects; and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade such as the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies.
- Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system.
- Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located sufficiently proximate to a surface water that if defective, could allow exfiltration to that surface water. Whether a line is "sufficiently proximate" will depend upon a number of factors including age, composition and PACP rating of the sewer line in question, the nature of the defect, soil types, and groundwater patterns.
- Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

- 5 – Most significant defect
- 4 – Significant defect
- 3 – Moderate defect
- 2 – Minor to moderate defect
- 1 – Minor defect.

## II. RECOMMENDED MEASURES

### A. Sewer Collection System Investigation and Repair

1. The repair or replacement, within two (2) years, of all sewer lines in the Discharger's sewer collection system sufficiently proximate to a surface water and determined to pose a risk of exfiltrating to that surface water, which have been CCTV'd within the past ten (10) years and were rated as Significantly Defective or given a comparable assessment.

2. Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.

3. Within two (2) years after completion of the Surface Water Condition Assessment above, the Discharger will:

- Repair or replace all sewer lines found to be Significantly Defective; and
- Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the Discharger's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced. Sewer pipe segments which contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment are to be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the Discharger determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the discharger shall complete such repair or replacement within two (2) years after the last CCTV cycle.

4. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the Discharger shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 5 or 4 based on the PACP rating system shall be repaired or replaced within three (3) years after the rating determination.

5. Provision in the Discharger's Capital Improvements Plan to implement a program of Condition Assessment of all sewer lines at least every five (5) years. This program shall begin one (1) year following the Full Condition Assessment described above.

**B. SSO Reporting and Response**

1. Modification of the Discharger's Backup and SSO Response Plan to include in its reports submitted to the CIWQS State Reporting System the following items:

- The method or calculations used for estimating total spill volume, spill volume that reached surface waters, and spill volume recovered;
- For Category I and II Spills, a listing of nearby residences or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began; and,
- Taking of photographs of the manhole flow at the SSO site using the Central Coast Method array, if applicable to the SSO, or other photographic evidence that may aid in establishing the spill volume.

2. Pursuant to the Discharger's legal obligation under the Statewide WDR, Section D.7.v., the Discharger shall obtain a qualified biologist to develop and implement an adequate sampling program to determine the nature and impact of all SSOs.

3. Creation of website capacity to track information regarding SSOs or, in the alternative, the creation of a link from the Discharger's website to the CIWQS SSO Public Reports. Notification shall be given by the Discharger to all customers and other members of the public of the existence of the web-based program, including a commitment to respond to private parties submitting overflow reports.

4. Performance of human marker sampling on surface waters adjacent to sufficiently proximate sewer lines to test for sewage contamination from exfiltration.

**C. Lateral Inspection/Repair Program**

Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:



1. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within ten (10) years prior to the transfer;
2. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
3. A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, or (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;
4. Upon replacement or repair of any part of the sewer lateral
5. Upon issuance of a building permit with a valuation of \$50,000.00 or more; or,
6. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

**D. Remedial Measures for Compliance with Groundwater Limitation Requirements**

1. Within one (1) year from the date of this Notice, the Discharger will complete lab scale pilot testing of treatment technologies, including source control, for bringing its groundwater within its NPDES Permit limits.

2. Within two (2) years from the date of this Notice, the Discharger will complete large scale pilot testing of treatment technologies, including source control, for bringing its groundwater within its NPDES permit limits.

3. Within three (3) years from the date of this Notice, the Discharger will install treatment technologies for bringing its groundwater within its NPDES permit limits.

**E. Receiving Water Monitoring**

Within forty-five (45) days from the date of this Notice, the Discharger will initiate the reporting of the results of its receiving water monitoring in its SMRs which are posted on SMARTS.

**CONCLUSION**

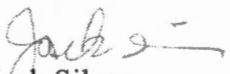
The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch

may use the affected watershed for recreation, fishing, horseback riding, hiking, photography or nature walks. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person", including a governmental instrumentality or agency, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), 33 U.S.C. § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500.00 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact River Watch within **20 days** after receipt of this Notice to initiate a discussion regarding the allegations detailed herein. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

  
Jack Silver

JS:lhbm

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